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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/760,579	01/16/2001	Peter Rae Shintani	SNY-P4165	2899

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EXAMINER	
BELIVEAU, SCOTT E	
ART UNIT	**PAPER NUMBER**
2614	

DATE MAILED: 06/06/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/760,579	SHINTANI ET AL.	
	Examiner	Art Unit	
	Scott Beliveau	2614	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *27 December 2004*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-27* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-27* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *27 December 2004* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Drawings

1. The drawings were received on 27 December 2004. These drawings are approved.

Response to Arguments

2. Applicant's arguments with respect to claims 1-20 and 24-27 have been considered but are moot in view of the new ground(s) of rejection.

With respect to the applicant's arguments that the Leak reference fails to particularly comprise receivers that are unable to request information from the service provider, the examiner respectfully disagrees. In particular, the Leak et reference explicitly discloses that the system includes both receivers which are capable of connecting and those which are not capable of connecting to the Internet (Figure 3; Col 7, Lines 52-63). Furthermore, as contemplated by Zigmond et al. ('392), which is expressly incorporated into Leak et al., receivers that are able to access the Internet which receive broadcast web content may find that the received information is inadequate. Subsequently, the receivers with Internet connectivity access the Internet in order to obtain an adequate version.

With respect to applicant's arguments that the reference fails to teach or suggest "scanning content . . . for a universal resource locator", the examiner respectfully disagrees. As set forth by the applicant, the Leak reference looks for triggers which contain a URL. Leak subsequently retrieves Internet content associated with the URL in order to relay this information to receivers that are unable to establish an Internet connection. The instant application does not set forth any special definition of "scanning". Accordingly, it is the

examiner's opinion that the system, in connection with looking for the "triggers", is also searching for or looking for or "scanning" for URLs associated with the "triggers" in order to determine what associated information or web based content needs to be retrieved.

With respect to applicant's argument that the Leak et al. reference fails to "cache at the headend", such is arguably moot in light of the new ground(s) of rejection. However, as previously set forth, it is the examiner's opinion that retrieving information from the Internet by the headend for subsequent distribution to receiver units requires a "cache memory" or some form of bank of memory for temporary storage in order to facilitate the encoding of the retrieved information into the VBI for distribution. A "cache memory" as defined in the instant application is disclosed as embracing any storage device used as a cache without limitation (IA: Page 12, Lines 15-17). Accordingly, as applicant has not met their burden of proof as to how Leak et al. could operate without some form of "cache memory", such arguments are not deemed persuasive.

In response to applicant's argument that there is no suggestion to combine the Leak et al. and Mighdoll et al. references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, the Leak reference serves as a proxy server for a plurality of receivers which may or may not be capable of retrieving content from the Internet content. The Mighdoll et al. reference teaches that it is

advantageous for a proxy server to cache web content for the purpose of reducing latency associated with retrieving documents from the Internet (Col 1, Line 54 – Col 2, Line 6). Given that the Leak et al. headend is already scanning, retrieving documents, and serving as the proxy server for receivers capable of retrieving content from the Internet and recievers that are not capable of retrieving information from the Internet and the Leak et al. provider is clearly aware of documents which will be subsequently requested by virtue of their inclusion in the video programming, it is the examiner's opinion that it would have been obvious to further supply and transcode the documents already retrieved by the headend in response to requests from those receivers that are capable of connecting to the Internet should the need arise for those receivers to access the Internet for those documents.

3. Applicant's arguments filed with respect to claims 21-23 have been fully considered but they are not persuasive.

With respect to applicant's arguments pertaining to the deficiencies of the Leak et al. and Mighdoll et al. reference, the applicant appears to repeat previously set forth arguments and is respectfully referred to the earlier discussion of such. In response to applicant's argument that the examiner's conclusion of obviousness is based upon improper hindsight reasoning, it must be recognized that any judgment on obviousness is in a sense necessarily a reconstruction based upon hindsight reasoning. But so long as it takes into account only knowledge which was within the level of ordinary skill at the time the claimed invention was made, and does not include knowledge gleaned only from the applicant's disclosure, such a reconstruction is proper. See *In re McLaughlin*, 443 F.2d 1392, 170 USPQ 209 (CCPA 1971). In the instant case, the particular usage of a headend acting as a proxy server was

knowledge that was within the level of ordinary skill of the art as evidenced by the Dureau et al. and Kunkel et al. references of record. Furthermore, the particular technique and desirability for predicatively cache web pages at a headend which are expected to be requested by the end-users is also within the level of ordinary skill as evidenced by Kunkel et al.

Claim Objections

4. Claim23 is objected to because the term "secibdary" should be amended to read "secondary". Appropriate correction is required.

Double Patenting

5. A rejection based on double patenting of the "same invention" type finds its support in the language of 35 U.S.C. 101 which states that "whoever invents or discovers any new and useful process ... may obtain a patent therefor ..." (Emphasis added). Thus, the term "same invention," in this context, means an invention drawn to identical subject matter. See *Miller v. Eagle Mfg. Co.*, 151 U.S. 186 (1894); *In re Ockert*, 245 F.2d 467, 114 USPQ 330 (CCPA 1957); and *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970).

A statutory type (35 U.S.C. 101) double patenting rejection can be overcome by canceling or amending the conflicting claims so they are no longer coextensive in scope. The filing of a terminal disclaimer cannot overcome a double patenting rejection based upon 35 U.S.C. 101.

6. Applicant is advised that should claim 3 be found allowable, claim 17 will be objected to under 37 CFR 1.75 as being a substantial duplicate thereof. When two claims in an application are duplicates or else are so close in content that they both cover the same thing, despite a slight difference in wording, it is proper after allowing one claim to object to the other as being a substantial duplicate of the allowed claim. See MPEP § 706.03(k).

Claim Rejections - 35 USC § 112

7. The following is a quotation of the first paragraph of 35 U.S.C. 112:

> The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

8. Claim 7 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. In particular, while the reference sets forth the particular usage of a cable modem and the distribution of data in an out-of-band channel (IA: Page 7, Lines 11-17; Page 9, Lines 24-30), the reference does not explicitly set forth that the DOCSIS cable modem necessarily receives the requested data via the out-of-band channel as opposed to the usage of an in-band channel.

9. The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

10. Claim 15 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In particular, independent claim 10 recites "a cache memory residing at the service provider site". Claim 15 states that "the cache memory is situated at a subscriber's set-top box". It is unclear as to how the same "cache memory" can be located at two places at once. For the purpose of art evaluation, the examiner shall presume that the claim has been rewritten such that the cache memory of claim 15 is a separate memory located at the subscriber set-top box.

Claim Rejections - 35 USC § 103

11. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

12. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

13. Claims 1, 6, 7-10, 14-16, 24, 26, and 27 are rejected under 35 U.S.C. 102(e) as being anticipated by Leak et al. (US Pat No. 6,668,378) in view of Mighdoll et al. (US Pat No. 5,918,013).

In consideration of claims 1 and 6, the Leak et al. reference discloses a "method of providing enhanced performance in an interactive television system" though pre-fetching and caching interactive content associated with a broadcast program. The method comprises "scanning an interactive content bearing program for a universal resource locator (URL)" associated with a broadcast trigger whereupon "finding a URL in the interactive content bearing program", the system "mirrors content associated with the URL to a cache memory . . . " such as that associated with the local receiver or set-top box which may or may not be capable of connecting to the Internet (Figures 8 and 9; Col 7, Lines 53-63; Col 10, Lines 30 – 32). Subsequently, while "presenting the interactive content bearing program to a plurality of subscribers", the receivers are operable to "receive a request from a subscriber for the URL" (ex. that associated with an order form or online magazine) whereupon the "mirrored content associated with the URL" is "retrieved" from a cache memory associated with the set-top and "delivered" to the subscriber.

While a "cache memory" is considered to be inherently "situated at [the] service provider head end" [605] of Leak et al. in conjunction with the retrieval and decoding of web pages for subsequent broadcast, it is unclear if the content associated with the URL is necessarily stored for subsequent retrieval by client units which deem the received mirrored content to be inadequate as set forth in Zigmond et al. ('392) (Figures 3 and 6), expressly incorporated by reference. The Mighdoll et al. reference discloses the advantageous usage of a remotely

located "cache memory" or proxy server [5] that facilitates the retrieval requested documents requested from the Internet by a WebTV® terminal whereupon the server "receives a request from a subscriber for [a] URL; retrieves the mirrored content associated with the URL from the cache memory upon receipt of the request; and delivers the mirrored content associated with the URL . . . to the subscriber requesting the URL" (Figure 5; Col 4, Line 41 – Col 5, Line 15; Col 5, Lines 31-65). Accordingly, as the existence of headend based caching of web pages is commonly known in the art, it would have been obvious to one having ordinary skill in the art at the time the invention was made so as to modify the "service provider head end" [605], which already serves as a form of Internet proxy, so as to further comprise a "cache memory" such as that utilized in connection with a WebTV® server for the purpose of advantageously reducing latency associated with retrieving documents from the Internet that are expected to be frequently requested by clients by nature of being associated with a broadcast program (Mighdoll et al.: Col 1, Line 54 – Col 2, Line 6).

Taken in combination, a trigger is received by the "service provider head end" [605] and its associated content is retrieved and cached both locally and remotely such that the content is quickly retrievable by Internet capable clients from a remote cache and is transcoded for broadcast delivery and local caching for both Internet and non-Internet capable receivers.

Claims 10 and 14 are rejected in view the aforementioned combination of references wherein the Leak et al. system has been modified so as to further comprises the "cache memory" [5] of Mighdoll et al. residing at the "service provider site" [605] of Leak et al. As previously set forth, the Leak et al. reference discloses a "program means running on a programmed processor" associated with the uplink station [605] or "media server residing at

the service provider site for presenting the interactive content bearing program to a plurality of subscribers" for providing a means to implement the "scanning" and "mirroring" (Leak et al.: Col 12, Lines 3-5).

While a "cache memory" is considered inherently "situated at [the] service provider head end" [605] of Leak et al. necessary for the retrieval and decoding of web pages for subsequent broadcast, it is unclear if the content associated with the URL is necessarily stored for subsequent retrieval by client units which deem the received mirrored content to be inadequate as set forth in Zigmond et al. ('392) (Figures 3 and 6), expressly incorporated by reference. The Mighdoll et al. reference discloses the advantageous usage of a remotely located "cache memory" or proxy server [5] which "mirrors content associated with [a] URL to the cache memory", provides "means for receiving a request from a subscriber for the URL; means for retrieving the mirrored content associated with the URL from the cache memory; and means for delivering the mirrored content associated with the RUL to the subscriber requesting the URL" (Figure 5; Col 4, Line 41 – Col 5, Line 15); Col 5, Lines 31-65). Accordingly, as the existence of headend based caching of web pages is commonly known in the art, it would have been obvious to one having ordinary skill in the art at the time the invention was made so as to modify the "service provider head end" [605], which already serves as a form of Internet proxy, so as to further comprise a "cache memory" such as that utilized in connection with a WebTV® server for the purpose of advantageously reducing latency associated with retrieving documents from the Internet that are expected to be frequently requested by clients by nature of being associated with a broadcast program (Mighdoll et al.: Col 1, Line 54 – Col 2, Line 6).

Claim 24 is rejected in view of the aforementioned combination of references wherein the method of claim 1 is operable to be implemented via a "processor" associated with a "storage medium storing instructions" (Leak et al.: Col 12, Lines 3-5).

In consideration of claim 7, the Mighdoll et al. reference discloses that "delivering is carried out by transmitting the mirrored content to the subscriber requesting the URL" using a modem pool consisting of any type of modem (Mighdoll et al: Col 3, Lines 35-64). The Leak et al. reference discloses that the receivers are operable to retrieve Internet content using a "cable modem" (Leak et al.: Col 4, Line 64 – Col 5, Line 6). The references, however, do not explicitly set forth that the cable modem necessarily utilizes an "out-of-band channel". The examiner takes OFFICIAL NOTICE as to the existence of cable modems which utilize an "out-of-band channel" so as to receive requested information. Accordingly, it would have been obvious to one having ordinary skill in the art at the time the invention was made so as to particularly utilize an "out-of-band channel" in connection with receiving data by the cable modem for the purpose of optimally utilizing the available distribution system bandwidth in a manner that does not interfere with the in-band video distribution.

Claims 8 and 26 are rejected wherein the system "determines that the URL requested by the subscriber is not in the cache memory" and subsequently "downloads the interactive content associated with the URL from the Internet" (Mighdoll et al.: Figure 6).

Claims 9, 16, and 27 are rejected wherein the combined references are operable to "examine the content associated with the URL for a secondary URL and mirror content associated with the secondary URL to the cache memory" (Leak et al.: Col 9, Lines 1-44).

Claim 15 is rejected wherein "[a] cache memory is situated at a subscriber's set-top box" (Leak et al.: Figures 8 and 9) (Zigmond et al.: Figure 4; Col 5, Line 47 – Col 6, Line 14).

14. Claims 2-5, 11-13, 17-20 and 25 are rejected under 35 U.S.C. 102(e) as being anticipated by Leak et al. (US Pat No. 6,668,378) in view of Mighdoll et al. (US Pat No. 5,918,013), and in further view of Arlitt et al. (US Pat No. 6,272,598)..

In consideration of claims 2-4, 11, 12, and 25, the combined references do not particularly disclose the usage of a "purging algorithm" for use in the "service provider head end" based proxy server. The Arlitt et al. reference discloses a method for "purging the cache memory in accordance with a purging algorithm . . . [based on] an amount of time the mirrored content has been in the cache memory" or "in accordance with a least frequent use algorithm" (Col 5, Line 58 – Col 6, Line 12). Accordingly, it would have been obvious to one having ordinary skill in the art at the time the invention was made so as to modify the combined references so as to further utilize a "purging algorithm" as taught by Arlitt et al. for the purpose of providing a flexible means for managing the limited storage capacity of a proxy cache (Arlitt et al.: Col 2, Lines 10-54).

Claims 5 and 13 are rejected wherein the "purging algorithm" is performed "in accordance with an order that the mirrored content was placed in the cache" (Arlitt et al.: Col 6, Lines 42-55). For example, assume that a content item that was originally placed in the cache 2 weeks prior to another item wherein all other factors associated with the content items are equal and neither page was revisited. The system would, subsequently, purge the first item prior to the second item based on the order that the mirrored content was placed in the cache.

Claim 17 does not recite limitations above the claimed invention set forth in claim 3 and is therefore rejected for the same reasons set forth in the rejection of claim 3 above.

Claims 18 and 19 are rejected in light of the aforementioned combined teachings wherein the "mirroring further comprises mirroring the content associated with the URL to a local cache memory situated at a subscriber's set-top box" (Leak et al.: Figure 8) (Zigmond et al.: Figure 4; Col 5, Line 47 – Col 6, Line 14). Accordingly, the "retrieving" comprises, initially using the "local cache", wherein if the content is not there, the request is sent further upstream to the service provider headend "cache memory" or proxy and finally "downloads the interactive content associated with the URL from the Internet" if it is not currently cached at the proxy (Zigmond et al.: Figures 3 and 6; Mighdoll et al.: Figure 6).

Claim 20 is rejected wherein the combined references are operable to "examine the content associated with the URL for a secondary URL and mirror content associated with the secondary URL to the cache memory" (Leak et al.: Col 9, Lines 1-44).

15. Claims 21-23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Leak et al. (US Pat No. 6,668,378), in view of Mighdoll et al. (US Pat No. 5,918,013), in view of Arlitt et al. (US Pat No. 6,272,598), and in further view of Tso et al. (US Pat No. 6,81,298).

In consideration of claim 21, the Leak et al. reference discloses a "method of providing enhanced performance in an interactive television system" though pre-fetching and caching interactive content associated with a broadcast program. The method comprises "scanning an interactive content bearing program for a universal resource locator (URL)" associated with a broadcast trigger whereupon "finding a URL in the interactive content bearing program", the system "mirrors content associated with the URL to a cache memory"

associated with the local receiver or "set-top box" (Figure 8; Col 10, Lines 30 – 32). Subsequently, while "presenting the interactive content bearing program to a plurality of subscribers", the receiver is operable to "receive a request form a subscriber for the URL" (ex. that associated with an order form or online magazine) whereupon the "mirrored content associated with the URL" is "retrieved" from the "cache memory . . . situated at a subscriber's set-top box" or the Internet (ex. Zigmond et al. ('392)) and "delivered" to the subscriber display.

The reference, however, does not disclose nor preclude the further "caching" of the retrieved "content associated with the URL to a cache memory situated at a service provider head end" that acts as a Internet proxy for downstream clients. The Mighdoll et al. reference discloses the advantageous usage of a remotely located "cache memory" so as to facilitate the retrieval of WebTV® terminal or client requested documents (Col 4, Line 41 – Col 5, Line 15). Accordingly, it would have been obvious to one having ordinary skill in the art at the time the invention was made so as to modify the "service provider head end" [605] so as to further comprise a "cache memory" such as that utilized in connection with a WebTV® server for the purpose of advantageously reducing latency associated with retrieving documents from the Internet that are expected to be retrieved in conjunction with the broadcast material (Col 1, Line 54 – Col 2, Line 6).

Taken in combination, a trigger is received by the "service provider head end" [605] and its associated content is retrieved "mirrored . . . to a cache memory situated at a service provider and a local cache memory situated at a subscriber's set-top box" . As aforementioned, the combined references do not particularly disclose the usage of a "purging

algorithm" for use in a proxy server such as the "server provider head end". The Arlitt et al. reference discloses a method for "purging the cache memory in accordance with a purging algorithm . . . [based on] an amount of time the mirrored content has been in the cache memory" (Col 5, Line 58 – Col 6, Line 3). Accordingly, it would have been obvious to one having ordinary skill in the art at the time the invention was made so as to modify the combined references so as to further utilize a "purging algorithm" as taught by Arlitt et al. for the purpose of providing a flexible means for managing the limited storage capacity of a proxy cache (Arlitt et al.: Col 2, Lines 10-54).

Taken in combination, however, the combined references do not particular disclose nor preclude the usage of a "purging algorithm" in conjunction with the limited local cache of the set-top box receiver. The Tso et al. reference discloses a method of "purging the cache memory in accordance with a purging algorithm . . . [based on] an amount of time the mirrored content has been in the cache" of the set-top box (Col 1, Lines 41-60). Accordingly, it would have been obvious to one having ordinary skill in the art at the time the invention was made so as to employ a "purging algorithm" for use in the Leak et al. set-top box for the purpose of providing a means to optimally manage the usage of a limited memory associated with a web page cache.

Claim 22 is rejected as aforementioned wherein the system "determines that the URL requested by the subscriber is not in the cache memory and the local cache memory" and subsequently "downloads the interactive content associated with the URL from the Internet" (Zigmond et al.: Figure 3; Mighdoll et al.: Figure 6).

Claim 23 is rejected wherein the combined references are operable to "examine the content associated with the URL for a secondary URL and mirror content associated with the secondary URL to the cache memory" (Leak et al.: Col 9, Lines 1-44).

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure as follows. Applicant is reminded that in amending in response to a rejection of claims, the patentable novelty must be clearly shown in view of the state of the art disclosed by the references cited and the objections made.

- The Hong et al. (US Pat No. 6,711,743) provides evidence as to the existence of OOB cable modems.
- The Burns et al. (US Pat No. 5,991,306) reference discloses a system for preemptively caching requested media content.
- The Leak et al. (US Pub No. 2004/0261130) reference discloses a system and method for distributing connected/disconnected content triggers.

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to

37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Scott Beliveau whose telephone number is 571-272-7343. The examiner can normally be reached on Monday-Friday from 8:30 a.m. - 6:00 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John W. Miller can be reached on 571-272-7353. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

SEB
May 31, 2005

JOHN MILLER
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